

## **REMARKS/ARGUMENTS**

Claims 18, 19, and 21-65 are pending in this application. Claims 23, 26-30, and 51-65 are withdrawn. Claims 18, 19, 21, 22, 24, 25, 31-33, 35-40, and 43-50 stand rejected. Claims 34, 41, and 42 were indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. By this response, claims 18, 19, 21, 24, 31, 43, and 50 are amended.

### **Interview Summary**

The Applicant thanks Examiner Eric Bertram for his participation in a telephone interview with attorneys Jason Kraus and Elizabeth Wright on Tuesday, June 12, 2007 at 10:30 AM Eastern Time, to discuss the Applicant's proposed amendments. Claims 18, 43, and 50 were discussed with respect to U.S. Patent 4,378,023 to Trabucco. The Examiner agreed that the proposed amendments directed to slideable advancement to claims 43 and 50 overcame the Trabucco reference. The Examiner suggested amending claim 18 to recite that the tension element is configured to guide slideable advancement of an electrode over the tension element such that the tension element extends completely through the pole.

### **35 U.S.C. § 102 and § 103 Rejections**

The Office Action rejected claims 18, 19, 21, 22, 24, 25, 31-33, 35-39, 43-48, and 50 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 4,378,023 to Trabucco.

As amended, claim 18 recites an apparatus for inserting an electrode into a myocardium of the heart. The apparatus comprises "a tension element attached to the anchor to guide slideable advancement of an electrode over the tension element during implantation of the electrode such that the tension element extends completely through a pole of the electrode." Trabucco does not teach or suggest a tension element attached to an anchor configured to guide slideable advancement of an electrode over the tension element during implantation such that the tension element extends completely through a pole of the

electrode. The electrode device 1 disclosed in Trabucco is not slideably advanced over the stylet 16 during implantation. Instead, the stylet 16 is used to push the electrode device 1 into the heart 33. *See* col. 9, lines 46-49, FIG. 4. Therefore, claim 18 is patentable over Trabucco. Claims 19, 21, 22, 24, 25, 31-33, and 35-39 depend from claim 18. Minor amendments have been made to claims 19, 21, 24, and 31 to reflect the amendment of claim 18. Claims 19, 21, 22, 24, 25, 31-33, and 35-39 are patentable over Trabucco for at least the reasons presented with respect to claim 18. The Applicant respectfully requests withdrawal of the 102(b) rejections of claims 18, 19, 21, 22, 24, 25, 31-33, and 35-39.

As amended, claim 43 recites an apparatus for inserting an electrode into a myocardium of the heart. The apparatus comprises “a first heart pacemaker electrode defining an inner guide channel configured such that the heart pacemaker electrode can be threaded over the proximal end of the tension element and slideably advanced over the tension element toward the anchor during implantation.”

As discussed with respect to claim 18, Trabucco fails to teach or suggest a first heart pacemaker electrode defining an inner guide channel configured such that the heart pacemaker electrode can be threaded over the proximal end of the tension element and slideably advanced over the tension element toward the anchor during implantation because the stylet 16 disclosed in Trabucco is used to push the electrode device 1 into the heart 33. *See* col. 9, lines 46-49, FIG. 4. The Applicant respectfully asserts that claim 43 is patentable over Trabucco for at least these reasons. Claims 44-48 depend from claim 43 and are patentable over Trabucco for at least the reasons presented with respect to claim 43. The Applicant respectfully requests withdrawal of the 102(b) rejections of claims 43-48.

As amended, claim 50 recites an apparatus for inserting an electrode into a myocardium of a heart. The apparatus comprises “an electrode defining an inner guide channel configured such that the electrode can be threaded over the proximal end of the tension element and slideably advanced over the tension element towards the heart during implantation.” The apparatus further comprises “means for anchoring a distal end of the tension element within the myocardium, the means for anchoring attached to the distal end of the tension element.” The “means for anchoring is separable from the electrode.” As

discussed with respect to claims 18 and 43, Trabucco fails to teach or suggest an electrode defining an inner guide channel configured such that the electrode can be threaded over the proximal end of the tension element and slideably advanced over the tension element towards the heart during implantation. Therefore, claim 50 is patentable over Trabucco. The Applicant respectfully requests withdrawal of the 102(b) rejection of claim 50.

Claims 39, 40, and 49 were rejected under 35 U.S.C. § 103(a) as unpatentable over Trabucco in view of U.S. Patent 3,244,174 to Wesbey et al. Claims 39 and 40 depend from claim 18 and claim 49 depends from claim 43. Wesbey does not remedy the deficiencies of Trabucco. These claims are patentable over Trabucco and Wesbey for at least the reasons presented with respect to claims 18 and 43. The Applicant respectfully requests withdrawal of the 103(a) rejections of claims 39, 40, and 49.

In conclusion, the Applicant respectfully requests the allowance of all pending claims in this application. The Applicant invites the Examiner to contact the undersigned at the number listed below with any remaining questions.

Respectfully submitted,

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